

Application Serial No. 10/573,693
Attorney Docket No. 294-246 PCT/US/RCE
Response to November 24, 2009
Non-Final Office Action

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Claim 1. (Currently amended) An apparatus for breeding shellfish to be bred in flowing water, the apparatus comprising

a frame-like structure having as a part thereof at least two mutually spaced apart buoyant bodies with a ballast capacity and/or ballast means, which buoyant bodies with a ballast capacity and/or ballast means are mutually connected by connecting means, such that an open frame is formed by at least said connecting means, wherein at least between the buoyant bodies with a ballast capacity and/or ballast means a series of breeding surfaces are provided, which breeding surfaces extend substantially parallel to each other above each other, the buoyant bodies with a ballast capacity and/or ballast means having a substantially cylinder-shape and a longitudinal axis disposed at an angle relative to the breeding surfaces, the longitudinal axis extending substantially vertically during use.

Claim 2. (original) An apparatus according to claim 1, wherein the breeding surfaces are formed by rows of growing elements arranged substantially next to each other.

Claim 3. (original) An apparatus according to claim 2, wherein paths are provided between at least a number of rows of growing elements located next to each other.

Claim 4. (Previously Presented) An apparatus according to claim 1, wherein the breeding surfaces are substantially manufactured from plastic provided with openings, such that shellfish can rest thereon and/or can attach thereto.

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Claim 5. (Previously Presented) An apparatus according to claim 1, wherein disposed next to the breeding surfaces an apparatus is provided for harvesting and/or maintaining the breeding surfaces.

Claim 6. (Previously Presented) An apparatus according to claim 1, wherein the frame is provided with supporting means on which the breeding surfaces, at least the growing elements, are mounted, such that at least parts of the breeding surfaces are removable individually and/or in groups.

Claim 7. (Previously Presented) An apparatus according to claim 1, wherein on the breeding surfaces, upstanding edges are provided for preventing the shellfish being carried along from the breeding surfaces by flowing water.

Claim 8. (Currently Amended) An apparatus according to claim 1, wherein at least four buoyant bodies with a ballast capacity and/or ballast means are provided, wherein the frame is substantially rectangular and wherein the breeding surfaces are situated between the buoyant bodies with a ballast capacity and/or ballast means within the frame.

Claim 9. (Currently Amended) An apparatus according to claim 1, wherein the distance between the buoyant bodies with a ballast capacity and/or ballast means is at least three times a height of the frame.

Claim 10. (Currently Amended) An apparatus according to claim 1, wherein the breeding surfaces are situated above each other and the distance between the buoyant bodies with a ballast capacity and/or ballast means, being between 0.1 and 1 meter.

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Claim 11. (Currently Amended) An apparatus according to claim 1, wherein the buoyant bodies with a ballast capacity and/or ballast means are so designed that, with these, the apparatus, in open water can be brought under water into a suspended position and is substantially self-lifting.

Claim 12. (Currently Amended) An apparatus according to claim 1, wherein within the frame a number of subframes are provided, each provided with floating means and/or ballast means and/or lifting means buoyant bodies with a ballast capacity or moving the subframes relative to the frame, with each subframe comprising a series of breeding surface parts situated above each other.

Claim 13. (Currently Amended) An apparatus according to claim 1, wherein the buoyant bodies with a ballast capacity and/or ballast means are substantially formed by cylinder-shaped tanks, provided with pumping means for pumping seawater as ballast into and out of the tanks in a controlled manner during use.

Claim 14. (Canceled)

Claim 15. (Currently Amended) A method for breeding shellfish, wherein

- i) an apparatus is provided with a number of breeding surfaces extending above each other and a frame-like structure having as a part thereof at least two buoyant bodies with a ballast capacity and/or ballast means having a substantially cylinder-shape and a longitudinal axis disposed at an angle relative to the breeding surfaces, wherein at least a portion of the number of breeding surfaces are interposed between at least a portion of the buoyant bodies;
- ii) the apparatus is positioned in open water with the breeding surfaces extending substantially horizontally and the longitudinal axis extending substantially vertically; and
- iii) shellfish and/or shellfish seed are provided on said breeding surfaces and are grown on the breeding surfaces, the apparatus being so designed with at least partly open sides that said water flows freely between and along the breeding surfaces for supplying food.

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Claim 16. **(Currently Amended)** A method according to claim 15, wherein the apparatus is brought under a water surface into a substantially suspended position using buoyant bodies with a ballast capacity and/or ballast means.

Claim 17. (Previously Presented) A method according to claim 15, wherein for harvesting shellfish from the breeding surfaces and/or maintenance of the apparatus, the apparatus is brought into a position floating substantially above the water, wherein the apparatus is approached using a vessel, and shellfish and/or shellfish seed are brought from said vessel onto the breeding surfaces and/or shellfish are brought from said breeding surfaces into said vessel and/or said maintenance is carried out from said vessel.

Claim 18. (Previously Presented) A method according to claim 15, wherein the apparatus is positioned at least 1 sea mile off a most nearby coast and preferably outside territorial waters

Claim 19. **(Currently Amended)** An apparatus according to Claim 1, wherein each of the buoyant bodies with a ballast capacity and/or ballast means provide a separate ballast capacity for changing buoyancy.

Claim 20. **(Currently Amended)** An apparatus according to Claim 1, wherein each of the buoyant bodies with a ballast capacity and/or ballast means are disposed at a different corner of the frame-like structure.

Claim 21. **(Currently Amended)** An apparatus according to Claim 1, wherein each of the at least two buoyant bodies with a ballast capacity and/or ballast means provide a different buoyancy.

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Claim 22. (New) An apparatus according to Claim 1 wherein the buoyant bodies with a ballast capacity can be brought at least in part above water from a position under water by means of the ballast capacity.

Claim 23. (New) The apparatus of Claim 21 whereby when brought above water at least some of the breeding surfaces are thereby brought above water.

Claim 24. (New) An apparatus according to Claim 1, wherein the breeding surfaces are substantially planar shellfish breeding surfaces.

Claim 25. (New) A method according to Claim 16 wherein after being brought under a water surface the apparatus is brought at least in part above the water surface by means of the buoyant bodies with a ballast capacity.

Claim 26. (New) A method according to Claim 25, wherein after being brought under a water surface the apparatus is brought at least in part above the water surface by means of the buoyant bodies with a ballast capacity.